

**PART 1909—ACCESS BY HISTORICAL RESEARCHERS AND CERTAIN FORMER GOVERNMENT PERSONNEL PURSUANT TO SEC. 4.4 OF EXECUTIVE ORDER 13526**

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AUTHORITY: Executive Order 13526, 75 FR 707, 3 CFR 2010 Comp., p. 298–327 (or successor Orders).

SOURCE: 62 FR 32498, June 16, 1997, unless otherwise noted.

GENERAL

**§ 1909.01 Authority and purpose.**

(a) *Authority*. This part is issued under the authority of and in order to implement section 4.4 of E.O. 13526 (or successor Orders); the CIA Information Act of 1984, as amended (50 U.S.C. 431); section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403); and section 6 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403g).

(b) *Purpose*. This part prescribes procedures for:

- (1) Requesting access to CIA records for purposes of historical research, or
- (2) Requesting access to CIA records as a former Presidential or Vice Presidential appointee or designee.

[76 FR 59034, Sept. 23, 2011]

**§ 1909.02 Definitions.**

For purposes of this part, the following terms have the meanings indicated:

(a) *Agency* or *CIA* means the United States Central Intelligence Agency

acting through the CIA Information and Privacy Coordinator;

(b) *Agency Release Panel* or *Panel* or *ARP* means the CIA Agency Release Panel established pursuant to 32 CFR 1900.41;

(c) *Days* means calendar days when the Agency is operating and specifically excludes Saturdays, Sundays, and legal public holidays. Three (3) days may be added to any time limit imposed on a requester by this part if responding by U.S. domestic mail; ten (10) days may be added if responding by international mail;

(d) *Control* means ownership or the authority of the CIA pursuant to federal statute or privilege to regulate official or public access to records;

(e) *Coordinator* means the CIA Information and Privacy Coordinator who serves as the Agency manager of the historical access program established pursuant to section 4.4 of the Order.

(f) *Director, Center for the Study of Intelligence* or “D/CSI” means the Agency official responsible for the management of the CIA’s various historical programs including the management of access granted under this section;

(g) *Director of Security* means the Agency official responsible for making all security and access approvals and for affecting the necessary secrecy, non-disclosure, and/or pre-publication agreements as may be required.

(h) *Director, Information Management Services* means the Senior Agency Official as defined in Section 6.1(mm) of the Order.

(i) *Federal agency* means any executive department, military department, or other establishment or entity included in the definition of agency in 5 U.S.C. 552(f).

(j) *Former Presidential or Vice Presidential appointee or designee* means any person who has previously occupied a senior policy-making position in the executive branch of the United States Government to which they were appointed by the current or a former President or Vice President.

(k) *Historical researcher* means any individual with professional training in the academic field of history (or related fields such as journalism) engaged in a research project leading to publication (or any similar activity

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such as academic course development) reasonably intended to increase the understanding of the American public into the operations and activities of the United States government. The term includes anyone serving as a research associate of a former Presidential or Vice Presidential appointee or designee.

(l) *Information* means any knowledge that can be communicated or documentary material, regardless of its physical form that is owned by, produced by or for, or is under the control of the United States Government.

(m) *Interested party* means any official in the executive, military, congressional, or judicial branches of government, United States or foreign, or U.S. Government contractor who, in the sole discretion of the CIA, has a subject matter or physical interest in the documents or information at issue.

(n) *Originator* means the CIA officer who originated the information at issue, or successor in office, or a CIA officer who has been delegated classification authority for the information at issue in accordance with the provisions of the Order.

(o) *Agency Release Panel (ARP)* refers to the Agency's forum for reviewing information review and release policy, the adequacy of resources available to all Agency declassification and release programs, and hearing requests in accordance with this section.

(p) *The Order* means Executive Order 13526 of December 29, 2009 and published at 75 FR 707 (or successor Orders).

[62 FR 32498, June 16, 1997, as amended at 76 FR 59034, Sept. 23, 2011]

### § 1909.03 Contact for general information and requests.

For general information on this Part, to inquire about historical access to CIA records, or to make a formal request for such access, please direct your communication in writing to the Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC. 20505. Inquiries will also be accepted by facsimile at (703) 613-3007. For general information only, the telephone number is (703) 613-1287. Collect calls cannot be accepted.

### § 1909.04 Suggestions and complaints.

The Agency welcomes suggestions, comments, or complaints with regard to its administration of the historical access program established pursuant to Executive Order 13526. Members of the public shall address all such communications to the CIA Information and Privacy Coordinator. The Agency will respond as determined feasible and appropriate under the circumstances.

[76 FR 59035, Sept. 23, 2011]

### REQUESTS FOR HISTORICAL ACCESS

### § 1909.11 Requirements as to who may apply.

(a) *Historical researchers*—(1) *In general.* Any historian engaged in a historical research project as defined above may submit a request in writing to the Coordinator to be given access to classified information for purposes of that research. Any such request shall indicate the nature, purpose, and scope of the research project.

(2) *Additional considerations.* In light of the very limited Agency resources, it is the policy of the Agency to consider applications for historical research privileges only in those instances where the researcher's needs cannot be satisfied through requests for access to reasonably described records under the Freedom of Information Act or the mandatory declassification review provisions of Executive Order 13526, and where issues of internal resource availability and fairness to all members of the historical research community militate in favor of a particular grant.

(b) *Former Presidential and Vice Presidential appointees or designees.* Any former Presidential or Vice Presidential appointee or designee as defined herein may also submit a request to be given access to any items which they originated, reviewed, signed, or received while serving in that capacity. Such appointees may also request approval for a research associate but there is no entitlement to such enlargement of access and the decision in

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this regard shall be in the sole discretion of the Agency. Requests from appointees shall be in writing to the Coordinator and shall identify the records of interest.

[62 FR 32498, June 16, 1997, as amended at 76 FR 59035, Sept. 23, 2011]

### § 1909.12 Designation of authority to grant requests.

(a) *The Agency Release Panel (ARP)* is designated to hear requests and shall issue the final Agency decision granting requests for access by historical researchers and access by former Presidential and Vice Presidential appointees and designees under Executive Order 13526 (or successor Orders) and these regulations.

(b) *ARP Membership.* The ARP is chaired by the Chief, Information Review and Release Group, Information Management Services, and composed of the Information Review Officers from the various Directorates and the D/CIA areas, as well as the representatives of the various release programs and offices. The Information and Privacy Coordinator also serves as Executive Secretary of the ARP.

[76 FR 59035, Sept. 23, 2011]

### § 1909.13 Receipt, recording, and tasking.

The Information and Privacy Coordinator shall within ten (10) days record each request for historical access received under this Part, acknowledge receipt to the requester in writing and take the following action:

(a) *Compliance with general requirements.* The Coordinator shall review each request under this part and determine whether it meets the general requirements as set forth in 32 CFR 1909.11; if it does not, the Coordinator shall so notify the requester and explain the legal basis for this decision.

(b) *Action on requests meeting general requirements.* For requests which meet the requirements of 32 CFR 1909.11, the Coordinator shall thereafter task the D/CSI, the originator(s) of the materials for which access is sought, and other interested parties. Additional taskings, as required during the review process, shall be accomplished within ten (10) days of notification.

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### § 1909.14 Determinations on requests for access by historical researchers.

*Required determinations.* The Agency shall make the following determinations in writing:

(a) That a serious professional or scholarly research project by the requester is contemplated;

(b) That such access is clearly consistent with the interests of national security;

(c) That a non-disclosure agreement has been or will be executed by the requester (and research associate, if any) and other appropriate steps are taken to assure that classified information will not be disclosed or otherwise compromised;

(d) That a pre-publication agreement has been or will be executed by the requester (and research associate, if any) which provides for a review of notes and any resulting manuscript;

(e) That the information requested be reasonably accessible and can be located and compiled with a reasonable effort;

(f) That it is reasonably expected that substantial and substantive government documents and/or information will be amenable to declassification and release and/or publication;

(g) That sufficient resources are available for the administrative support of the historical researcher given current requirements; and

(h) That the request cannot be satisfied to the same extent through requests for access to reasonably described records under the Freedom of Information Act or the mandatory declassification review provisions of Executive Order 13526.

[76 FR 59035, Sept. 23, 2011; 76 FR 64237, Oct. 18, 2011]

### § 1909.16 Action by Agency Release Panel (ARP).

The ARP shall meet on a regular schedule and may take action when a simple majority of the total membership is present. Issues shall be decided by a majority of the members present. In all cases of a divided vote, before the decision of the ARP becomes final, any member of the ARP may by written memorandum to the Executive Secretary of the ARP, refer such matters

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to the Director, Information Management Services (D/IMS) for decision. In the event of a disagreement with any decision by D/IMS, Directorate heads may appeal to the Associate Deputy Director, CIA (ADD) for resolution. The final Agency decision shall reflect the vote of the ARP, unless changed by the D/IMS or the ADD.

[76 FR 59035, Sept. 23, 2011]

### § 1909.17 Notification of decision.

The Executive Secretary shall inform the requester of the final Agency decision and, if favorable, shall manage the access for such period as deemed required but in no event for more than two years unless renewed by the Panel or Board in accordance with the requirements of this Part.

[76 FR 59035, Sept. 23, 2011]

### § 1909.18 Termination of access.

The Coordinator shall cancel any authorization and deny any further access whenever the Director of Security cancels the security clearance of a requester (or research associate, if any); or whenever the Agency Release Panel determines that continued access would no longer be consistent with the

requirements of this Part; or at the conclusion of the authorized period of up to two years.

[76 FR 59035, Sept. 23, 2011]

## PART 1910—DEBARMENT AND SUSPENSION PROCEDURES

Sec.

1910.1 General.

AUTHORITY: 50 U.S.C. 401-442; 50 U.S.C. 403a-403u; 48 CFR ch. 1, subpart 9.4.

### § 1910.1 General.

The Central Intelligence Agency (CIA), in accordance with its authorities under the Central Intelligence Agency Act of 1949, as amended, and the National Security Act of 1947, as amended, has an established debarment and suspension process in accordance with subpart 9.402(d) of the Federal Acquisition Regulation (FAR). This process and the causes for debarment and suspension are consistent with those found in FAR 9.406 and 9.407. The rights of CIA contractors in all matters involving debarment and suspension are hereby governed by the provisions of subpart 9.4 of the FAR.

[69 FR 63064, Oct. 29, 2004]